

**AMENDMENT NO. 1 TO
EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT
(APNS 097-01-039; 097-01-073; 104-01-102; and 104-03-036)**

This Amendment No. 1 to Exclusive Negotiating Rights Agreement (this "**Amendment**") is entered into as of this 1st day of July, 2014 by and between the City of Santa Clara (the "**City**") and Related Santa Clara, LLC, a Delaware limited liability company (the "**Developer**"), on the basis of the following facts:

RECITALS

A. The City and the Developer entered into an Exclusive Negotiating Rights Agreement dated as of April 9, 2013 (as previously amended, the "**Original ENA**"), and now desire to amend the Original ENA as provided below. Capitalized terms used in this Amendment without definition shall have the meanings given to such terms in the Original ENA.

B. The City is the owner of four parcels of real property in the City of Santa Clara (APNS 097-01-039; 097-01-073; 104-01-102; and 104-03-036), as shown on the map attached to the Original ENA.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1 Section 2 of the Original ENA is hereby amended to read in full as follows:

2. Negotiating Period. The Negotiating Period under this Agreement shall begin on April 9, 2013 and shall end on March 15, 2016 (as it may be extended from time to time as provided below, the "**Negotiating Period**"). If the City and Developer execute the DDA and the DA before the end of the Negotiating Period, the end of the Negotiating Period shall be automatically extended until five (5) business days after the last day on which a legal challenge to approval of the DDA, the DA, the EIR or other Project approvals given at approximately the same time as the DDA is approved (collectively, "Project Approvals") may be filed. If such a legal challenge is timely filed, the Negotiating Period shall be automatically extended until the earlier of (1) the effectiveness of the Project Approvals shall have been finally settled or upheld by a final, unappealable decision of the California courts without any material adverse effect on the Project Approvals or (2) ninety (90) days following such final settlement or unappealable decision that does not uphold the effectiveness of the Project Approvals as provided in clause (1). The Negotiating Period may also be extended for an additional two periods of six (6) months each upon presentation of a written request from the Developer together with a schedule of tasks to be accomplished during the additional period, at the discretion of the City Manager.

The Negotiating Period may be further extended or modified only by formal amendment of this Amendment executed by the City and the Developer.

2 Section 16 of the Original ENA is hereby amended to read in full as follows:

16. Site Access. The Developer and the City will enter into a separate agreement or agreements to provide the Developer, its consultants, lenders, investors and/or agents with the right to enter, examine and conduct tests on the Property, including the right to utilize the Property for purposes of promoting the Project and related activities; provided, that such access shall not interfere in any material respect with other uses of the Property that are the subject of written agreements between the City and third parties and shall be subject to such customary provisions (including the provision of liability insurance protecting the City) as the City may reasonably require.

3 The Term Sheet represents the positions of the Parties to date on the subject matter thereof. However, it does not supersede the rights of the Parties under the ENA, as amended. As amended herein, the Original ENA shall remain in full force and effect.

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IN WITNESS WHEREOF, the undersigned have executed this Term Sheet as of _____, 2014.

DEVELOPER:

RELATED SANTA CLARA, LLC, a
Delaware limited liability company

By: 

Its: Stephen Eimer, VP
Authorized Signatory

ATTEST:

By: 

ROD DIRIDON, JR.
City Clerk

CITY:

CITY OF SANTA CLARA, a chartered
municipal corporation

By: 

JULIO J. FUENTES
City Manager

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

APPROVED AS TO FORM:

By: 

RICHARD E. NOSKY, JR.
City Attorney